# In the Supreme Court of the United States

OCTOBER TERM, 1963

No. 1068

VETERANS OF THE ABRAHAM LINCOLN BRIGADE, PETITIONER

*v.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

## MEMORANDUM FOR THE RESPONDENT

The Subversive Activities Control Act provides for the registration of any "Communist-front organization" which is defined (Section 3(4)) as an organization "which (A) is substantially directed, dominated, or controlled by a Communist-action organization, and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization * * *." The Attorney General began this proceeding by filing a petition with the Subversive Activities Control Board for an order requiring the petitioner, the Veterans of the Abraham Lincoln Brigade, to register as a Communist-front organization. On De-



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ember 21, 1955, the Board issued a Report and Order determining petitioner to be a Communist-front organization and ordering it to register. The Board's ultimate finding of fact was:

> Upon the overwhelming weight of the evidence in this proceeding, it is concluded that [petitioner] is directed, dominated, and controlled by the Communist Party of the United States—a Communist action organization—and that [petitioner] is primarily operated for the purpose of giving aid and support to it and the world Communist movement.

On review, the Court of Appeals for the District of Columbia Circuit affirmed the Board's order (Pet. App. A, pp. 1–20).

In its petition for a writ of certiorari, petitioner raises the following issues:

First, whether the court of appeals correctly found that the evidence before the Board was sufficient to establish that petitioner was controlled by the Communist Party and was primarily operated in order to give aid and support to it.

Second, whether the aid component of Section 3(4) is satisfied by evidence that petitioner aids and supports the Communist Party by supporting causes which are not only supported by the Communist Party, but also by other non-Communist organizations.

Third, whether the Board's reliance in part on evidence concerning petitioner's activities prior to the passage of the Act violated the bill of attainder or *ex post facto* clauses of the Constitution.

Fourth, whether the provisions of the Subversive Activities Control Act of 1950 providing for the registration of "Communist-front" organizations are, as applied to the facts of this case, in violation of the First Amendment or the due process clause of the Fifth Amendment.

Fifth, whether the Board violated the due process clause or the Act by refusing to allow petitioners to relitigate whether the Communist Party was a Communist-action organization.

Respondent believes that the decision of the court of appeals was correct in rejecting petitioner's attack on the Board's order. The issues in this case, however, are the same as, or analogous to, the issues involved in *American Committee for the Protection of the Foreign Born* v. *Subversive Activities Control Board*, No. 909, this Term. Since the Court granted certiorari in that case, we do not oppose the granting of the writ of certiorari here.

Respectfully submitted.

ARCHIBALD COX,
*Solicitor General.*

JUNE 1964.

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